

CHAPTER 116
JUNKYARD CONTROL

[Prior to 6/3/87, Transportation Department [820]—(06,F)Ch 7]

761—116.1(306C) Definitions. The following terms when used in these rules shall have the following meanings:

116.1(1) *Abandoned or discontinued junkyards.* An accumulation of junk which would be a junkyard except that it has not been maintained, operated or used as an establishment or place of business for storing, keeping, buying or selling junk for the past 12 months. The owner or operator of a yard that otherwise would be an abandoned or discontinued junkyard may continue to qualify the yard as a junkyard by providing proof of income or loss through a copy of federal, state or local income tax returns or proof of the purchase or acquisition of new junk or sale or disposal of junk as substantiated by receipts, canceled checks, or other acceptable evidence of value exchanged.

116.1(2) *Adjacent area.* An area which is contiguous to and within 1,000 feet of the nearest edge of the right-of-way of an interstate, freeway primary, or primary highway.

116.1(3) *Automobile graveyard.* Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling ten or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but such terms shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the chief engineer of the department of natural resources.

116.1(4) *Industrial activities.* Activities permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by the authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following shall be considered industrial activities:

- a. Outdoor advertising structures,
- b. Agricultural, forestry, ranching, grazing, farming and related activities including, but not limited to, wayside fresh produce stands,
- c. Activities normally and regularly in operation less than three months of the year,
- d. Transient or temporary activities,
- e. Activities not visible from the traffic lanes of the main traveled way,
- f. Activities more than 300 feet from the nearest edge of the main traveled way within the corporate limits of cities and towns,
- g. Activities more than 1,000 feet from the nearest edge of the main traveled way outside of the corporate limits of cities and towns,
- h. Activities conducted in a building principally used as a residence,
- i. Railroad tracks, minor sidings, and passenger depots,
- j. Junkyards.

116.1(5) *Industrial zone.* A zone established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not considered to be an industrial zone.

116.1(6) *Junk, interstate highway, freeway primary, primary highway and department.* These terms shall have the same meanings as in Iowa Code chapter 306C.

116.1(7) *Junkyard.* An establishment or place of business which is maintained, operated, or used primarily for storing, keeping, buying or selling junk; and the term includes garbage dumps, sanitary landfills, and automobile graveyards subject to the requirements of Iowa Code chapter 306C.

116.1(8) *Main traveled way.* The portion of the roadway for movement of vehicles on which through traffic is carried exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main traveled way includes each of the separated roadways for traffic in opposite directions, exclusive of frontage roads, turning roadways, or parking areas.

116.1(9) *Right-of-way.* Land area dedicated to public use for the highway and its maintenance, and includes land acquired in fee simple or by permanent easement for highway purposes, but does not include temporary easements or rights for supplementary highway appurtenances.

116.1(10) *Unzoned industrial area.* The land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within 1,000 feet thereof which is:

- a. Located on the same side of the highway as the activity, and
- b. Not predominantly used for residential or commercial purposes, and
- c. Not zoned by state or local law, regulation or ordinance.

116.1(11) *Visible.* Capable of being seen without visual aid by a person of normal visual acuity. This rule is intended to implement Iowa Code subsection 306C.2(3) and section 306C.8.

761—116.2(306C) Junkyards prohibited—exceptions. After July 1, 1972, a person shall not establish, operate, or maintain a junkyard, any portion of which is within the adjacent area and visible from the main traveled way of any interstate, freeway primary or primary highway except:

1. A junkyard which is screened by natural objects, plantings, fences, or other appropriate means.
2. A junkyard which is located within an industrial zone.
3. A junkyard which is located within an unzoned industrial area.
4. A junkyard which is not visible from the main traveled portion of the highway.

This rule is intended to implement Iowa Code section 306C.2.

761—116.3(306C) Screening or removal.

116.3(1) *Removal of junkyards which subsequently become nonconforming.* Any junkyard, except those junkyards which meet the requirements of rule 116.2(306C), lawfully in existence on July 1, 1972, and any junkyard which was lawfully established, but which subsequently becomes nonconforming through changed conditions, such as a change of zoning, or being located upon land adjacent to any highway or land made an interstate, freeway primary, or primary highway after July 1, 1972, shall be screened, if feasible, or removed by the department.

116.3(2) *Removal of junkyards established after July 1, 1972.* Any junkyard established and any portion of any junkyard expanded after July 1, 1972, and any junkyard abandoned or discontinued, except those junkyards or any portion of any junkyard which meets the requirements of rule 116.2(306C), shall be screened or removed by the owner at no expense to the department. Required screening shall be maintained by the owner at the owner's expense so long as the junkyard remains subject to these rules.

This rule is intended to implement Iowa Code section 306C.3.

761—116.4(306C) Acquisition. When the department determines that it is in the best interests of the state, it may acquire by gift, purchase, exchange, or condemnation, as provided by law, the property or rights or interests in property as may be necessary to provide adequate screening for junkyards. When the department determines that screening of a junkyard will not be economically feasible, the department may acquire the property or rights or interests in property as may be necessary to secure the relocation, removal, or disposal of the junkyard and shall pay the cost of the relocation, removal, or disposal. However, no plan for relocation, removal, or disposal which qualifies for federal participation shall be undertaken unless the department has received notification from the federal government that the federal share to be paid is immediately available for that purpose.

This rule is intended to implement Iowa Code section 306C.5.

761—116.5(306C) Screening. Screening for each individual junkyard required to be screened shall meet the standards of these rules. Where the owner is required to screen, the owner shall submit a screening plan which shall be approved by the department. Screening plans shall integrate the screen

with the natural surroundings and shall consider and make provisions to ensure reasonable access to the screen for purposes of maintaining the screens required by these rules.

116.5(1) Purpose. Screening shall be designed to eliminate the visual impact of the junkyard contents by obscuring it from view from the main traveled portion of the highway.

116.5(2) Type. Materials for use in screening and junkyards shall generally consist of natural objects, plantings, fences, or other appropriate means such as storage sheds, buildings and other similar elements.

a. Natural objects shall be earthen berms, rock formations, wooded areas, or other similar elements.

b. Plantings shall be shrubs and trees of such types as to provide year-round obscurement commensurate with local site conditions. All plant material used for screening shall be of a size and quantity to provide obscurement.

c. Screens shall be made of wood, metal or other materials commonly used in the building trade, and shall be of a height and type necessary to provide obscurement. Screens shall be designed to withstand a minimum wind load of 20 pounds per square foot and shall be of a permanent nature. All materials used for finishing screens shall be a nonreflective material which will blend with the natural surroundings. Screening shall not be placed so that either the screen or the maintenance of the screen will create or contribute to the creation of a safety hazard or endanger public safety or will interfere with the public's use or the department's maintenance of the highway.

116.5(3) Maintenance. The owner or operator of a junkyard shall maintain the screening in a condition equal to the original installation of the screening. Maintenance shall include, but not be limited to, the following items:

a. Replacement of plant material which is dead or has been damaged so that it no longer serves the intended purpose of screening the junkyard.

b. Screen maintenance shall include the renewal of the surface treatment with stains, paints, or other appropriate material as specified in subrule 116.5(2) when needed and the replacement of panels, sections, members, or support structures of the screening when needed.

This rule is intended to implement Iowa Code section 306C.4.

761—116.6(306C) Nuisance—injunction. Any junkyard operated or maintained or which is altered, changed or enlarged in violation of these rules and the Iowa Code shall be considered a public nuisance. If, after written notice by certified mail to the landowner and the owner of the junkyard of any such violation, the owner or operator fails or refuses to comply with the terms of the notice, the department may apply for an injunction to abate the nuisance.

This rule is intended to implement Iowa Code section 306C.6.

761—116.7(17A) Hearings and appeals. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision pursuant to 761—Chapter 13.

This rule is intended to implement Iowa Code chapter 17A.

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